DICKINSON *v.* ARMSTRONG et al.

Sept. 23, 1919.

[100 S. E. 813.]

Elections (§ 51*)—Electoral Board; Appointment of Election Officials.—Under Code 1904, § 117, it is the duty of the electoral board of each city and county to appoint the judges and clerks of elections, who are to hold all elections to be held in their respective precincts for one year, beginning on the 1st day of June following appointment; but the statute does not inhibit the appointment of the same person from year to year.

[Ed. Note.—For other cases, see 5 Va.-W. Va. Enc. Dig. 10, 11.]

Petition for a writ of mandamus. Judgment reversed.

JOHN P. PETTYJOHN & SONS *v.* BASHAM.

Sept. 17, 1919.

[100 S. E. 813.]

1. Appeal and Error (§ 1011 (1)*)—Review of Finding of Court after Disagreement of Jury.—Finding by the court to which the cause was submitted after disagreement of the jury, being supported by evidence, is unassailable on appeal.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 622]

2. Appeal and Error (§ 1008 (2)*)—Review of Findings by Court after Disagreement of Jury—Where the jury was discharged because of inability to agree, and questions of fact submitted to trial court, the decision of the trial judge is not entitled to the same weight as if case had been submitted without intervention of jury.

3. Negligence (§ 32 (1)*)—Duty to Licensees Defined.—An occupant of land is charged with knowledge of the use of his premises by a licensee, and while not chargeable with the duty of prevision or preparation for the safety of the licensee, he is chargeable with the duty of lookout.

[Ed. Note.—For other cases, see 10 Va -W. Va. Enc. Dig. 367.]

4. Negligence (§ 32 (1)*)—Duty to Invitees Defined.—An occupant of land owes to an invitee, to the extent of the invitation, the duty of prevision, preparation, and lookout, and must use ordinary care to see that his premises are in a reasonably safe condition.

[Ed. Note.—For other cases, see 10 Va.-W. Va. Enc. Dig. 370.]

5. Negligence (§ 32 (2)*)—When Invitation and License Will Be Inferred.—Usually an invitation will be inferred where the visit is of common interest or mutual advantage to the parties, while a li-

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*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

cense will be inferred where the object is the mere pleasure or benefit of the visitor.

[Ed. Note.—For other cases, see 10 Va.-W. Va. Enc. Dig. 367, 370.]

6. Trial (§ 105 (1)*)—Evidence; Effect of Failure to Object.—That no exception was taken to the admission of testimony merely affects its admissibility, and does not give it any greater weight than it would have had if exception had been taken.

7. Negligence (§ 32 (2)*)—Scope of Invitation.—Where the general contractor employed a subcontractor to do the plumbing in the building, an employé of the subcontractor, who had a safe and easy method of access to the roof through a dormer window, cannot recover for his injuries received when a scaffold built by the general contractor for its carpenters broke when he was attempting to use it to reach the roof; his use of the scaffold being that of a licensee and not an invitee.

Sims, J., dissenting.

[Ed. Note.—For other cases, see 10 Va.-W. Va. Enc. Dig. 367, 370, 371.]

Error to Law and Chancery Court of City of Roanoke.

Action by one Basham against John P. Pettyjohn & Sons. There was a judgment for plaintiff, and defendants bring error. Reversed.

Staples & Cocke, of Roanoke, and *Wilson & Manson,* of Lynchburg, for plaintiffs in error.

Jackson & Henson, of Roanoke, for defendant in error.

PICKARD *v.* COMMONWEALTH.

Sept. 17, 1919

[100 S. E. 821.]

1. Physicians and Surgeons (§ 6 (1)*)—Practicing without Certificate.—One who announced that he was ready to examine human beings physically, to diagnose their ailments, and furnish, for compensation, a remedy which would relieve the same, and did engage in the business of examining persons, diagnosing their ailments and furnishing medicine which he claimed would relieve them, violated the statute prohibiting the practice of medicine without obtaining a certificate, although such person claimed that he did not charge for the diagnosing, but only for the medicine, and that the diagnosing was for the purpose of advertising his medicine.

[Ed. Note.—For other cases, see 11 Va. W.-Va. Enc. Dig. 203.]

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*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.